

DEPARTMENT OF SOCIAL SERVICES

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March 9, 1983

ALL COUNTY INFORMATION NOTICE NO. 1-34-83

TO: ALL COUNTY CLERKS  
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES  
ALL SDSS ADOPTION DISTRICT OFFICES

SUBJECT: PROVISIONS OF AB 2695 (Chapter 977, Statutes of 1982)

This notice is to inform you of certain provisions of AB 2695 (Chapter 977, Statutes of 1982) which relate to adoption records. AB 2695 provides that an interlocutory decree of adoption may be issued for a child who is eligible for aid under the Adoption Assistance Program. The provisions of this bill which may be of particular interest to you are as follow:

- 1) The petitioner for adoption and the department or licensed adoption agency may jointly petition the court for an interlocutory decree of adoption for a child who is eligible for the Adoption Assistance Program.
- 2) The interlocutory decree becomes a final decree of adoption after 12 months, unless a motion to shorten, extend or set aside the decree has been filed with the court.
- 3) The interlocutory decree of adoption is rescinded by filing a motion with the court for the rescission of the decree. A copy of the motion and notice of the hearing on the motion are to be served upon the other parties to the adoption at least 10 days before the hearing on the motion.
- 4) The Court Report of Adoption (V.S. 44) shall be forwarded to the State Registrar within five days of the interlocutory decree becoming a final decree of adoption, and not earlier.

For your information, we have attached the relevant sections of AB 2695.

  
CLAUDE FINN

Deputy Director

Adult and Family Services Division

Attachment

cc: CWDA

Assembly Bill No. 2695

CHAPTER 977

An act to amend Sections 224n and 226 of the Civil Code, to amend Section 10430 of the Health and Safety Code, to amend Sections 300, 358, 11209, 11210, 11214, 11400, 11404, 11404.2, 11450, 15200, 16115, 16115.5, 16116, and 16118 of, to add Sections 300.1, 11402.5, 11404.1, 11409, 11460, 11461, 11462, 11462.5, 11463, 15200.5, 16120, 16121, 16122, 16123 to, and to repeal Sections 11404, 11461, 16117, 16120, 16120.1, 16120.5, 16121, 16121.1, and 16122 of, the Welfare and Institutions Code, relating to adoption assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1982. Filed with  
Secretary of State September 13, 1982.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2695, Moore. Adoption assistance.

Existing law provides that the agency to which a child has been relinquished for purposes of adoption has various duties concerning care, custody and control of the child until an adoption award has been granted.

The bill provides for circumstances under which, for children eligible for aid under the Adoption Assistance Program, interlocutory decrees of adoption may be granted for a period not to exceed 12 months with the court having power to extend the decree for a period not to exceed 6 months. The bill provides that a petition for an interlocutory decree may be jointly filed by the petitioner for adoption, and the State Department of Social Services or licensed adoption agency, and that either party is authorized to file for rescission of the petition.

Existing law provides for aid for adoption of children, by providing assistance to adoptive families.

This bill would rename this program the Adoption Assistance Program and would extend the program to cover children in public care institutions under certain conditions.

The bill contains various provisions relating to the Adoption Assistance Program. It would require the State Department of Social Services or the responsible licensed adoption agency to determine the eligibility of a child for the program.

The bill contains provisions for determining the county of responsibility for making payments to adoptive families under the Adoption Assistance Program.

The bill requires, as a prerequisite to an adoptive family receiving assistance under the program, that the family enter into an agreement with the responsible agency, outlining conditions which

child until either an interlocutory decree of adoption or a final decree of adoption has been granted. Any placement for temporary care, or for adoption made by the department or a licensed adoption agency, may be terminated at its discretion at any time prior to the granting of an interlocutory decree of adoption or final decree of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the agency.

No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both of his parents and referred to the department or a licensed adoption agency for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department or licensed adoption agency. After the petition for adoption has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department or a licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or a licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the superior court may nevertheless decree the adoption if it finds that the refusal to consent is not in the best interest of the child.

(b) The petitioner for adoption and the department or a licensed adoption agency having exclusive custody of the child may jointly petition the court for an interlocutory decree of adoption for a child eligible for aid under the Adoption Assistance Program. The court receiving such a petition may grant an interlocutory decree of adoption, which gives the petitioner legal custody of the child, if the court finds the child to be free for adoption, and which shall become a final decree of adoption upon the expiration of not more than 12 months from entry, unless a motion to set aside this decree, or to shorten or extend the interlocutory period, has been filed with the court.

The petitioner for adoption or the department or licensed adoption agency may file a motion with the court for an order rescinding the interlocutory decree of adoption. The motion shall be supported by an affidavit stating the grounds upon which the decree should be rescinded. A copy of the motion and notice of the hearing on the motion shall be served upon the other petitioners for the interlocutory decree of adoption at least 10 days before the hearing. The court, after proof of notice and after giving the parties an opportunity to be heard on the motion, may enter an order rescinding the interlocutory decree of adoption.

An interlocutory decree of adoption shall become a final decree of

entered declaring a child legally adopted by any court in the state. Such report shall be forwarded within five days after an interlocutory decree of adoption becomes a final decree of adoption, and not earlier.

SEC. 2.5. Section 300 of the Welfare and Institutions Code is amended to read:

300. Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge such person to be a dependent child of the court:

(a) Who is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising such care or control, or has no parent or guardian actually exercising such care or control. No parent shall be found to be incapable of exercising proper and effective parental care or control solely because of a physical disability, including, but not limited to, a defect in the visual or auditory functions of his or her body, unless the court finds that the disability prevents the parent from exercising such care or control.

(b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode.

(c) Who is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

(d) Whose home is an unfit place for him by reason of neglect, cruelty, depravity, or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is.

(e) Who has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and for whom an interlocutory decree has not been granted pursuant to Section 224n of the Civil Code or an adoption petition has not been granted.

SEC. 2.5. Section 300.1 is added to the Welfare and Institutions Code, to read:

300.1. Notwithstanding the provisions of subdivision (e) of Section 361 and Section 16507, family reunification services shall not be provided to a minor adjudged a dependent pursuant to subdivision (e) of Section 300.

SEC. 3. Section 358 of the Welfare and Institutions Code is amended to read:

358. (a) After finding that a minor is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and such other relevant and material evidence as may be offered, and in any judgment and order of disposition, shall state the social study made by the probation officer has been read and considered by the court.

(b) If the court finds that a minor is described by subdivision (e)